



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG

Docket No: 3564-00
28 July 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you received nonjudicial punishment on 1 December 1998 for conduct prejudicial to good order and discipline. The punishment imposed included a reduction in rate from RM2 (E-5) to RM3 (E-4). Subsequently, your appeal of the NJP was denied.

In a related action, the commanding officer withdrew his recommendation for your pending advancement to RM1 (E-6). On 21 September 1999 the commanding officer mitigated the punishment imposed at the 1 December 1998 NJP. The subject line of the letter inaccurately stated that he was setting aside the NJP. However, the text of the letter clearly shows that the intent was to reduce the punishment imposed at the NJP. The letter states, in part, as follows:

... Subsequent to NJP on 1 December 1998, mitigating circumstances were brought to my attention which warrant setting aside of the reduction in rate. Although I am setting aside the reduction in rate, I maintain my removal of his recommendation for E-6.

On 12 January 2000 the Naval Inspector General concluded that an investigation did not substantiate any of your allegations.

The Board was aware that the removal of the recommendation for advancement is a separate administrative action, and was taken because of the commanding officer's assessment that you should not be advanced. The Board concluded that the incident which led to the NJP was sufficient to support the removal of the recommendation for advancement and there has been no abuse of discretion in this regard.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director